

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
UNITED STATES OF AMERICA, : Docket #23cr118/
 : 23m2007
 :
Plaintiff, :
 :
- against - :
 :
WANG, YANPING, : March 31, 2023
 : New York, New York
 :
Defendant. :
 :
----- : BAIL HEARING

PROCEEDINGS BEFORE
THE HONORABLE ROBERT W. LEHRBURGER,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE CLERK: We're here in the matter for a bail hearing, U.S.A. v. Yanping Wang, 23m2007. Parties, please state your name for the record starting with the Government.

MS. JULIANA MURRAY: Good morning, Your Honor, Juliana Murray, Ryan Finkel, and Micah Fergenson on behalf of the United States. We're joined by (inaudible).

THE COURT: Good morning.

MS. PRIYA CHAUDHRY: Good morning, Your Honor, Priya Chaudhry from Chaudhry Law along with Alice Lipton of Lipton Law PLLC for Ms. Yanping Wang who is present seated all the way to my right (inaudible).

THE COURT: Thank you, good morning. Good morning, Ms. Wang. Can you hear and understand everything the interpreter is saying?

MS. WANG: Yes.

THE COURT: All right. So, yes, this is scheduled for a bail hearing this morning in further follow-up to previous proceedings before Judge Parker and then Judge Netburn. And I understand though that the defense has an application in regard to whether they are ready to proceed today?

MS. CHAUDHRY: Yes, Your Honor, if I can

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2 (inaudible). We are requesting that this hearing be
3 adjourned and (inaudible) in front of Judge Torres
4 (inaudible). First, for context, Ms. Wang was arrested
5 on March 15, 2023, which is 16 days ago. At the time of
6 her arrest, the Government (inaudible) and obtained all
7 of the documents that they (inaudible). Since that time
8 we have asked the Government for a (inaudible) obtained;
9 they did not provide it to us. We asked them previously
10 for photos of what they received, and only last night
11 did they provide them, and to be fair, we did ask for
12 them yesterday because in their response to our motion
13 that started referencing evidence that we had never
14 seen.

15 So the Government has had all of the
16 information that it today provided the Court and on its
17 own surreply to our reply without getting permission
18 they provided (inaudible). And we have had constant
19 contact with the Government since Ms. Wang was arrested,
20 more than in most cases, as we have been trying to
21 satisfy the (inaudible). Ms. Lipton has had nearly
22 daily contact with the Government discussing the issues,
23 trying to comply (inaudible), trying to come up with a
24 different package. Never before did the Government tell
25 us that this is what they have or that this was doing to

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2 be what they asked for.

3 And now 30 minutes before this hearing in their
4 surreply they ambush us with this information that we
5 have not had a chance to discuss with our client, and
6 barely in the back we got to show her what it is they're
7 saying. And in addition to (inaudible) that we had no
8 chance to procure or obtain, they're now asking for a
9 detention which is, first of all, not an appropriate
10 thing in a reply memo, it's a separate motion. And,
11 two, this Court no longer has original jurisdiction over
12 a request for detention. This is now a district court
13 case. So it is not appropriate for them to bring in
14 front of this court which is supposed to, according to
15 Judge Torres, just discuss our bail application. Now
16 they have made in their reply a new application
17 (inaudible) surreply for detention without any
18 conditions.

19 It would be, Your Honor, ineffective of us to
20 proceed today given what the Government has done. We
21 have not had an adequate opportunity to discuss this
22 with our client and to (inaudible) to research any of
23 the issues they have brought up here or investigate them
24 independently. There are now evidentiary issues that
25 (inaudible). The Government has made some allegations

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2 of what the relationships are between documents they
3 found and Ms. Wang. They have made representations
4 about items they had found in her possession that they
5 have not provided to us yet. And as the Court knows,
6 typically the Government would need to put some sort of
7 evidence forth, whether it would be in an affidavit from
8 an agent or something like that, and we would have a
9 chance to examine that and reply. We can't do any of
10 that.

11 And for all of those reasons we are unable to
12 proceed today, and we would ask that this Court adjourn
13 this hearing and send it back to Judge Torres so that we
14 can adequately address all these issues. I believe you
15 already have us here (inaudible) Judge Torres set for
16 Tuesday, April 5. And that's when we'd like this
17 hearing to be adjourned to (inaudible).

18 THE COURT: Now, did Judge Torres previously
19 refer the application that you have made to this Court?

20 MS. CHAUDHRY: Our application she did refer to
21 this Court, but the Government in their surreply for the
22 first time brought in all these allegations and evidence
23 has now made a new application for detention. Judge
24 Torres did not have the opportunity to look at that
25 (inaudible) to this Court. So our view is that now

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2 there are two different issues. One was our bail
3 hearing which we separately are unprepared to address
4 because they did not provide this to us, and, in fact,
5 in their original reply they did not provide it, which
6 would have given us the opportunity to go to the
7 (inaudible) with an interpreter and Ms. Wang and go
8 through these things and be ready for today. That's
9 one. And then separately they have now made a new
10 application which Judge Torres has not referred to this
11 Court which is for a detention hearing.

12 THE COURT: I mean it's all one and the same,
13 right? You've had turns for bail and release, and the
14 question arose as to whether those conditions have been
15 met, whether the Government is being unreasonable in
16 determining whether those conditions have been met, and
17 what the consequences should be which might include the
18 Court finding that the suretors are appropriate or not
19 and/or potential modification which I believe the
20 defendant asked for. And as I saw in the surreply this
21 morning, the Government, as I saw it, was, yes, putting
22 some new evidence before the Court and suggesting that
23 if the Court were so inclined to release, that the
24 conditions would have to be modified for that. I mean
25 I'll view this as all one and the same.

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However, I do think that there may be some concern about your opportunity to be able to sufficiently respond to what was submitted this morning. So let me ask Ms. Murray if she can respond to that.

MS. MURRAY: Yes, Your Honor. We agree with Your Honor that all these matters (inaudible) and that is exactly what Judge Torres (inaudible). Yesterday morning we laid out the procedural history of this matter including that the initial bail hearing had been held by Judge Parker on March 15. The defendant then asked for a hearing in front of Judge Netburn the next week which was determined to be not ripe (inaudible) presented to the Court. (inaudible) at the defendant's request (inaudible) defense to file a motion last Friday, (inaudible) file our response on Wednesday, (inaudible) hearing to proceed today. And Judge Torres was aware of all of that when she referred, generally speaking, the bail hearing to this Court.

So we do believe that all (inaudible). The defendant has made a motion, the Government has responded, it's been fully briefed. To the extent the Government submitted a supplemental opposition today, that contains new information that we only learned yesterday, and we're putting it before the Court

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2 (inaudible), but there's no reason for the Court to
3 defer a decision on the motion which the defendant chose
4 to bring before this Court (inaudible).

5 THE COURT: Ms. Chaudhry.

6 MS. CHAUDHRY: And, Your Honor, Ms. Murray did
7 not address why (inaudible) for 15 days and she knew
8 this yesterday, and she didn't even give us a heads up
9 and why she waited to let us know after she filed it on
10 the docket. That is just not appropriate. There's no
11 way we could have been prepared. It seems clearly
12 designed to make it so that we either (inaudible)
13 situation of proceeding ineffectively (inaudible) or
14 we're required now to ask for more time.

15 THE COURT: Well, look, I do think it's only
16 fair for the defense to be able to have some time to
17 respond, particularly since this did arise out of the
18 defendant's application. And the defendant is currently
19 being detained on the proviso that she has to meet all
20 conditions before she is released. There's that
21 restriction and provision that is at issue. So since
22 the defendant is currently being detained and it is her
23 application to have the Court either agree that the
24 qualifications of the suretors are sufficient or to
25 modify the provisions, I will put this over.

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I do think it's highly inefficient to continue having this go from duty judge to duty judge. I would be happy to keep it, and now that I am familiar with it and to have you back for a hearing next week. Ms. Murray, what do you think of that?

MS. MURRAY: Yes, Your Honor, we agree, and to the extent that the defense would like to proceed in front of Judge Torres, we think it would be appropriate (inaudible).

THE COURT: Do you have a position on that, Ms. Chaudhry? And let me be clear, I'm not - this would not be to the exclusion of your raising with Judge Torres if you want her to consider it.

(pause in proceeding)

MS. CHAUDHRY: Your Honor, when would you be able to schedule (inaudible)?

THE COURT: Well, I assume you want it for after seeing Judge Torres. And is Judge Torres being seen on Tuesday?

MS. CHAUDHRY: (inaudible)

THE COURT: Okay.

(pause in proceeding)

THE COURT: I could see her afterwards. So I could see you after you see Judge Torres on Tuesday. If

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2 she's made a decision that she wants to deal with it,
3 then we don't need to have a hearing. And if she still
4 wants me to consider it, we can have a hearing after you
5 have seen her. All right, Ms. Murray?

6 MS. MURRAY: (inaudible)

7 THE COURT: All right, so we - no? Yeah, when
8 you have any estimate of when you would be out of Judge
9 Torres' courtroom, I don't know what it is you'll
10 necessarily be going over with her, why don't I set it
11 down for - you said it was 11:30 with --

12 MS. MURRAY: It's 11:30, Your Honor. It's an
13 initial pretrial conference for Ms. Wang and her
14 coconspirators (inaudible), and then we'll (inaudible).

15 THE COURT: Ah. Okay, why don't we set it down
16 for 1:30. If you're ready earlier, let me know. If
17 it's going to run late, just try to get in touch with my
18 deputy and we'll take care of it. All right? Thank
19 you, we're adjourned on this matter.

20 (Whereupon the matter is adjourned.)
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C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, United States of America versus Wang, Docket #23cr118/23m2007, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature

Carole Ludwig

Carole Ludwig

Date: April 3, 2023